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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,075	01/18/2006	Takeshi Koda	8048-1139	3697
466 7590 08/25/2009 YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			EXAMINER PENDLETON, DIONNE	
			ART UNIT 2627	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/565,075

**Applicant(s)**

KODA ET AL.

**Examiner**

DIONNE H. PENDLETON

**Art Unit**

2627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 17-28** are rejected under either one of 35 U.S.C. 102(a) or (e) as being anticipated by **Park (US Pub. No. 2005/0025003)**.

#### **Regarding claim 17,**

Park teaches a write-once-type recording medium (**paragraph [0038]**) comprising:

a data area to record therein the record data (**see “user area” in figure 2**);

a control information recording area, which includes a definite defect management area to record therein defect management information of said data area, to record therein information for controlling at least one of operations of recording and reading in said data area (**see the “Lead-out” area which contains therein “DMA” areas**);

and a shared area (“OSAO”, in figure 2), which is disposed between said control information recording area and said data area, to record therein evacuation data which is record data to be recorded at a position of a defect in said data area (paragraph [0039]) and to temporarily record therein the defect management information of said data area (see “TDMA2” in figure 2), wherein the defect management information includes (i) an evacuation source address which is an address of the position of the defect in the data area and (ii) an evacuation destination address which is an address of a recording position of the evacuation data (see paragraph [0056]-[0057] which discloses that “OSAO” area also includes address information of the defective cluster i.e., “evacuation source address”, as well and address information of the replacement cluster i.e., “evacuation destination address”).

**Regarding claim 18,**

Park teaches that the evacuation data is continuously recorded and the defect management information is continuously recorded, in the shared area (figure 4 teaches that the evacuation data (24) and the defect management information (21,22) are *continuously* recorded in respective areas, as broadly claimed).

**Regarding claim 19,**

Park teaches that the evacuation data and defect management information are recorded, repeatedly, a plurality of times, in said shared area (**paragraph [0056] discloses that each defect which is detected will result in a “replacement” operation, as illustrated in figure 4, wherein evacuation data and defect management information are *repeatedly* recorded for each respective defect).**

**Regarding claims 20, 23 and 27,**

Park teaches a recording apparatus, its associated method of operating, as well as a computer program product for embodying a program of instructions executable by a computer and for a recording apparatus, wherein the apparatus is for recording data onto a write-once-type recording medium (**paragraph [0038]**) and comprises:

- (i) a data area to record therein the record data (**see “user area” in figure 2**);
- (ii) a control information recording area, which includes a definite defect management area to record therein defect management information of said data area, to record therein information for controlling at least one of operations of recording and reading in said data area (**see the “Lead-out” area which contains therein “DMA” areas**);
- (iii) a shared area (“OSAO”, in figure 2), which is disposed between said control information recording area and said data area, to record therein evacuation data

which is record data to be recorded at a position of a defect in said data area **(paragraph [0039])** and to temporarily record therein the defect management information of said data area **(see “TDMA2” in figure 2)**, wherein the defect management information includes (i) an evacuation source address which is an address of the position of the defect in the data area and (ii) an evacuation destination address which is an address of a recording position of the evacuation data (see paragraph [0056]-[0057] which discloses that “OSAO” area also includes address information of the defective cluster i.e., “evacuation source address”, as well and address information of the replacement cluster i.e., “evacuation destination address”),

said recording apparatus and method comprising:

a first recording device and operating process for recording the record data into said data area **(parts and elements operating to perform said function are illustrated in figure 11);**

and a second recording device and operating process for recording the evacuation data and the defect management information into said shared area **(parts and elements operating to perform said function are illustrated in figure 11).**

**Regarding claim 21,**

Park teaches that the second recording device (see figure 11) records evacuation data is continuously recorded and the defect management information continuously, in the shared area **(figure 4 teaches that the evacuation data (24) and the defect management information (21,22) are *continuously* recorded in respective areas, as broadly claimed).**

**Regarding claim 22,**

Park teaches that the second recording device uses a border point of a data-recorded-area and a data-unrecorded-area in the shares area as a start point, to record the evacuation data and defect management data into a data-unrecorded-area **(see start points “24” and “21” or “22” in figure 4).**

**Regarding claims 24, 26 and 28,**

Park teaches a reproducing apparatus, its associated method of operating, as well as a computer program product for embodying a program of instructions executable by a computer and for a reproducing apparatus, wherein the apparatus is for reproducing record data from a write-once-type recording medium **(paragraph [0038])** and comprises:

- (i) a data area to record therein the record data (see “user area” in figure 2);
- (ii) a control information recording area, which includes a definite defect management area to record therein defect management information of said data area, to record therein information for controlling at least one of operations of recording and reading in said data area (see the “Lead-out” area which contains therein “DMA” areas);
- (iii) a shared area (“OSAO”, in figure 2), which is disposed between said control information recording area and said data area, to record therein evacuation data which is record data to be recorded at a position of a defect in said data area (paragraph [0039]) and to temporarily record therein the defect management information of said data area (see “TDMA2” in figure 2), wherein the defect management information includes (i) an evacuation source address which is an address of the position of the defect in the data area and (ii) an evacuation destination address which is an address of a recording position of the evacuation data (see paragraph [0056]-[0057] which discloses that “OSAO” area also includes address information of the defective cluster i.e., “evacuation source address”, as well and address information of the replacement cluster i.e., “evacuation destination address”),

said reproducing apparatus and method comprising:



a reading device and reading process for reading the defect management information in said shared area **(parts and elements operating to perform said function are illustrated in figure 11);**

and a reproducing device and reproducing process for reproducing the record data in said data area or the evacuation data in said shared area, on the basis of the defect management information **(parts and elements operating to perform said function are illustrated in figure 11).**

**Regarding claim 25.**

Park teaches that the reading device searches for a border point of a data-recorded-area and a data-unrecorded-area in the shared area, to read the defect management information **(Park discloses that the "OSAO" includes a "TDMA" area (defect management information) corresponding to "border point").**

***Response to Arguments***

2. Applicant's arguments with respect to claims rejected in the Official Action mailed on 2/27/2009, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **DIONNE H. PENDLETON** whose telephone number is (571)272-7497. The examiner can normally be reached on 10:30-7:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dionne H Pendleton/  
Examiner, Art Unit 2627

/Wayne Young/  
Supervisory Patent Examiner, Art Unit 2627